

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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RODNEY SMITH, LEON WILSON, BRENDAN  
VILELLA, ERIC JOHNSON, MARQUAILAS GRAY,  
JOSEPH ANDERSON, SHERWIN ALVAREZ,  
DWAYNE PATTERSON, ANIBEL PEREZ COLON,  
JEFFREY CORIOLAN, DEVON BROWN, TEDDY  
SPANN, DAQUAN BROWN, TYSHAWN  
KENNEDY, MICHAEL ROCK, DESHAWN PAIGE,  
TAHEEM PRATT, ZANTWON TUCKER, NATOINE  
MARSHALL, ISAIAH FOSTER, STEVEN  
MITCHELL, and FERNANDO BELL,

Plaintiffs,

-against-

CAPTAIN DIAZ, CAPTAIN RAYMOND,  
SANCHEZ, CAPTAIN KAMONA McDONALD,  
C.O. TIMOTHY HODGES, C.O. SHANE  
STERLING, C.O. ALEXIS CALHOUN, C.O. KEVIN  
JONES, C.O. BRANDON GREEN, C.O. LAURIE  
MESTRE, C.O. JORGE CORDERO, C.O. PATRICK  
DARIUS, C.O. PETER OTHMAN, C.O. DAMON  
WAITHE, C.O. ROSCOE NEELY, C.O.  
LAWRENCE McARDLE, C.O. OSWALD  
HYPPOLITE, C.O. JERMAINE DILL, C.O. JASON  
FERNANDEZ, C.O. KEOSHA MAYNARD, C.O.  
STEVE HYPPOLITE, C.O. LORA GREEN, C.O.  
ELVIN McLAUHLIN, C.O. SEAN MEDINA, C.O.  
MATTHEW HALYARD, C.O. BRIAN REES, C.O.  
KENNY IP, C.O. WILSON DELOSSANTOS, C.O.  
KELVIN RUSH, C.O. AARON MURPHY, ROBERT  
FRASER,

Defendants.  
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**STIPULATION OF  
VOLUNTARY DISMISSAL  
OF CERTAIN DEFENDANTS**

15-CV-3859 (PKC) (CLP)

**WHEREAS**, plaintiffs commenced this action by filing a complaint on or about  
July 1, 2015, and filed a First Amended Complaint on February 12, 2018, alleging that the  
defendants violated plaintiffs' federal civil rights and state common law rights;

**WHEREAS**, plaintiffs now seek to voluntarily dismiss defendants City of New York, Correction Commissioner Joseph Ponte, William Clemons, and "John and Jane Doe #1-15" with prejudice;

**WHEREAS**, the individual identified in the original Complaint as "Captain 'John' Fraser" is the same individual identified in the First Amended Complaint as "Robert Fraser" who plaintiffs also now seek to voluntarily dismiss with prejudice;

**WHEREAS**, the individual identified in the original Complaint as "Corrections Officer 'John' Washington" is not named as a defendant in the First Amended Complaint, but still included on the docket;

**WHEREAS**, the individual identified in the original Complaint as "Corrections Officer 'John' Sterling" is the same individual identified in the First Amended Complaint as "C.O. Shane Sterling," but "Corrections Officer 'John' Sterling" is still included on the docket; and

**WHEREAS**, plaintiffs have authorized their counsel to agree to the terms set forth below;

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, as follows:

1. Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, any and all of the claims and rights of action arising out of the facts and circumstances that are the subject of this action, and that were asserted or could have been asserted by or on behalf of plaintiffs against defendants City of New York, Correction Commissioner Joseph Ponte, William Clemons, Captain "John" Fraser, Robert Fraser, "Corrections Officer 'John' Washington," and "Corrections Officer 'John' Sterling," and "John and Jane Doe #1-15", their successors and

assigns, are hereby dismissed and discontinued, with prejudice, and without attorney's fees, costs or disbursements to either party;

2. This Stipulation contains all the terms and conditions agreed upon by counsel for defendants and counsel for plaintiffs hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein; and

3. This Stipulation shall be binding upon the parties immediately upon signature and shall be submitted to the Court for entry as an Order.

Dated: New York, New York

April ~~1~~, 2018

5/24/2018

**ZALTZBERG LAW**  
*Attorneys for Plaintiffs*  
305 Broadway, Suite 900  
New York, New York 10007

By: 

RAOUL ZALTZBERG

**ZACHARY W. CARTER**  
Corporation Counsel of the City of New York  
*Attorney for Defendants*  
100 Church Street, Room 3-214A  
New York, New York 10007

By: 

JOHN L. GARCIA  
*Assistant Corporation Counsel*

SO ORDERED:

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HON. CHERYL L. POLLAK  
UNITED STATES MAGISTRATE JUDGE